

§ 10.88

(2) Make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except at the discretion of the Administrative Law Judge, in extraordinary circumstances;

(3) Determine the time and place of hearing and regulate its course and conduct;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written argument on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(10) Make initial decisions.

§ 10.88 Hearings.

(a) *In general.* The Administrative Law Judge shall preside at the hearing on a complaint for the disqualification of an appraiser. Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be conducted pursuant to 5 U.S.C. 556.

(b) *Failure to appear.* If either party to the proceeding fails to appear at the hearing after due notice thereof has been sent to him/her, the right to a hearing shall be deemed to have been waived and the Administrative Law Judge may make a decision by default against the absent party.

§ 10.89 Evidence.

(a) *In general.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings on complaints for the disqualification of appraisers. However, the Administrative Law Judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

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(b) *Depositions.* The deposition of any witness taken pursuant to § 10.90 may be admitted.

(c) *Proof of documents.* Official documents, records, and papers of the Internal Revenue Service or the Department of the Treasury shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Internal Revenue Service or the Department of the Treasury, as the case may be.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the Administrative Law Judge may authorize the withdrawal of the exhibit subject to any conditions which he/she deems proper.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as ordered by the Administrative Law Judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.

§ 10.90 Depositions.

Depositions for use at a hearing may, with the written approval of the Administrative Law Judge, be taken either by the Director of Practice or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 10 days' written notice to the other party before any officer duly authorized to administer an oath for general purposes or before an officer or employee of the Internal Revenue Service who is authorized to administer an oath in internal revenue matters. Such notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 10 days' notice may be waived by the parties in writing, and depositions may then be taken from the persons and at the times and places mutually agreed to by the parties. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such